

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 5:18-00014-001

SHAWN AKIEM ANDERSON

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion for appointment of counsel to assist in the filing of a motion for compassionate release. (ECF No. 35.) For the following reasons, the court **DENIES** defendant's motion.

There is no constitutional right to the appointment of counsel to file post-conviction motions. Lawrence v. Florida, 549 U.S. 327, 336-37 (2007) (citing Coleman v. Thompson, 501 U.S. 722, 756-57 (1991)); Rouse v. Lee, 339 F.3d 238, 250 (4th Cir. 2003), cert. denied, 541 U.S. 905 (2004). The court has discretion to appoint counsel in proceedings under 18 U.S.C. § 3582(c) if the interests of justice so require. See United States v. Legree, 205 F.3d 724, 730 (4th Cir. 2000); cf. 18 U.S.C. § 3006A (providing the interests of justice standard for appointment of counsel in similar post-conviction proceedings).

Defendant is seeking compassionate release due to risks associated with the COVID-19 pandemic, mainly due to his preexisting health conditions that place him at greater risk for severe illness if he contracts COVID-19. Defendant, however, is capable of requesting compassionate release on this basis without

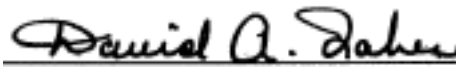
the assistance of counsel, and he has not otherwise established that the interests of justice require appointment of counsel in these circumstances at this time. Accordingly, the court hereby **DENIES** the motion, (ECF No. 35), to the extent defendant seeks appointment of counsel.

Defendant may send a letter to the court requesting compassionate release. If he elects to do so, defendant should demonstrate that he has exhausted administrative remedies, and explain why his health conditions and the COVID-19 situation at his place of incarceration warrant compassionate release.

The Clerk is directed to send a copy of this Order to counsel of record and any unrepresented parties.

It is SO ORDERED this 28th day of July, 2020.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge